HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.21788 of 2007

O R D E R:

This Writ Petition, under Article 226 of the Constitution of India, has been filed questioning the action of respondent Nos.2 and 3 in executing the agreement in favour of respondent No.5 as being arbitrary, illegal, highhanded and violative of principles of natural justice apart from violative of Articles 14, 19 and 21 of the Constitution of India. Consequently, a direction is sought to respondent Nos.2 and 3 to cancel the work order issued in favour of respondent No.5.

2. In the affidavit filed in support of the Writ Petition, it is stated that the government had taken steps for giving contracts in rural areas and, in furtherance thereto, the government issued notification with regard to sanction of work in Varkal Village vide G.O.Rt.No.551 dated 12.06.2007 for construction of Ground Level Service Reservoir (GLSR) for providing Krishna water at an estimated cost of Rs.1.00 lakh. As per the procedure, the concerned Member of Legislative Assembly should supervise the developmental work under Rajiv Pallebata Programme and the Panchayat Raj Department should monitor the work from time to time. After sanction of work by the government, the Gram Panchayat, Varkal, on 18.03.2008 passed a resolution unanimously resolving the petitioner to execute the work at the center of the Village and sent the same for approval of respondent No.3. Respondent No.2 entered into an agreement with respondent No.5 and granted work order without any notice to respondent No.4, Sarpanch and its members. Respondent No.2 failed to

inform respondent No.4 at any point of time before passing order in favour of respondent No.5 and, as the place of construction of GLSR has not yet been decided by the Gram Panchayat, the Deputy Executive Engineer had no authority to construct the GLSR wherever he thinks. It is the further case of the petitioner that respondent No.3 and the Village Secretary signed nomination papers in favour of respondent No.5 without any resolution from the Gram Panchayat and that respondent No.2 without looking into the documents blindly recommended the proposals of respondent No.5. Pleading in the manner indicated supra, the present Writ Petition has been filed.

3. A counter affidavit is filed by respondent No.2 *inter alia* contending that the government, vide G.O.Rt.No.551 Planning (VII) Department dated 12.07.2007, accorded administrative sanction to an extent of Rs.1.50 crores and that the government sanctioned construction work of 10 K.Litre GLSR with an estimated cost of Rs.1.00 lakh under Rajiv Palle Bata Scheme by the aforesaid G.O. It is further contended that, since the value of work was below Rs.5.00 lakhs, being in accordance with G.O.Ms.No.37 PR & RD (Progs.1 A) dated 18.02.2005, the work was entrusted to respondent No.5 as it was a self-help group and approached respondent No.3 firstly. It is also contended that an agreement was entered into between respondent No.5 and respondent No.2 on 30.06.2008, that the work order was issued in favour of respondent No.5, that the resolution of the petitioner was passed subsequent to the resolution made in their favour and that the work was already executed by respondent No.5. Pleading in the manner aforesaid, respondent No.2 prayed for dismissal of the Writ Petition.

4. No reply affidavit is filed by the petitioner to the counter

affidavit filed by respondent No.2 wherein it is stated that an agreement was entered into between respondent No.5 and respondent No.2 and work was already executed by respondent No.5. In view of the above developments, this Court is of the opinion that nothing remains for adjudication in the Writ Petition.

5. For the aforesaid reasons, the Writ Petition is dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

A.V.SESHA SAI,J

Date: 20.11.2013
usd